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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,278	10/13/2000	Ellen Marie Ajello	CL/V-31174A	1195

1095 7590 09/09/2003

THOMAS HOXIE
NOVARTIS, CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER, NJ 07936-1080

EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/09/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,278

Applicant(s)

AJELLO et al.

Examiner

H. VARGOT

Group Art Unit

1732

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 6/23/03

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1 + 2-42 is/are pending in the application.

Of the above claim(s) 27-42 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-26 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____

☐ Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Japanese Kokai 1-152,015 in view of Hoffman et al essentially for reasons of record noting the following.

Applicant has amended the claims in a manner which is consistent with what has already been claimed, and hence the claims are rejected for reasons of record.

2. Applicant's arguments filed June 23, 2003 have been fully considered but they are not persuasive. While applicant insists that neither JP -015 or Hoffman et al disclose or teach lowering the temperature of a contact lens with a cryogenic substance **to reduce adhesion** between the lens and mold, such is not persuasive. Japanese -015 discloses using a cryogenic substance to quench the upper portion of a lens and generate a local shrinkage, whereupon it is rather clear that the shrinkage on the upper portion of the lens causes the lower portion of the lens directly below same and the mold to which it is associated to break away--ie, a reduced adhesion between a portion of the lens and the portion of the mold directly below the shrinkage. Hence, it is submitted that, contrary to applicant's description of what is occurring in Japanese -015, the reference is teaching using a cryogen to reduce the adhesion of the lens and the mold directly below the point where the cryogen is applied. For indeed, if the cryogen did not reduce mold

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adhesion, what would be the purpose of using it in the first place? The mere fact that the upper surface is shrunk to some extent would inherently cause the lower surface to buckle and physically lift from the mold--ie, a reduced adhesion. When the abstract mentions the lower surface 3b, it specifically states "...as a lower surface 3b adhered to the mold retains the mold temperature...". While applicant interprets this to mean that the (entire) lower surface of the lens is adhered to the mold, it is submitted rather that such means the portion of the lower surface which does not break away remains adhered to the mold. In other words, some portion of the lens lower surface does break away due to the cryogen application at the top of the lens and therefore this portion exhibits a reduced adhesion to mold 4, which is why the lens can be removed easily and without damaging the lens by using the cryogen. While it is realized that ejector pins are used, the cryogen nevertheless must function to reduce adhesion at the point where the ejector pins are used. Again, if such were not the case, applicant's explanation of why the cryogen is used in the first place would be appreciated. In truth, if the cryogen does not serve to reduce the adhesion between a portion of the lens lower surface and the mold, there would be no reason to use it. Hoffman is still being relied upon to teach the deblocking of a siloxane contact lens and as such is submitted to have been an obvious substitution for the Fresnel lens of the primary reference.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Vargot whose telephone number is 703 308-2621.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

M. Vargot

September 6, 2003


MATHIEU D. VARGOT
PRIMARY EXAMINER
GROUP 1300
9/6/03